

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

STEVE HUTCHINSON,	:	Case No. 1:20-cv-901
	:	
Plaintiff,	:	Judge Timothy S. Black
	:	
vs.	:	Magistrate Judge Karen L. Litkovitz
	:	
CITY OF MIDDLETOWN, OHIO, <i>et al.</i> ,	:	
	:	
Defendants.	:	

**DECISION AND ENTRY
ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 17)**

This case is before the Court pursuant to the Order of General Reference to United States Magistrate Judge Karen L. Litkovitz. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on November 18, 2020, submitted a Report and Recommendation. (Doc. 4). On January 20, 2021, Defendants Raqib Ahmed and Andrew Minic filed objections. (Doc. 13).

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing and Defendants' objections, the Court finds that the Report and Recommendation (Doc. 4) should be and is hereby adopted in its entirety.

Defendants' sole objection is that the Magistrate Judge erred by allowing individual capacity claims to proceed against Defendants Ahmed and Minic. (Doc. 13 at 2). Defendants contend that because Plaintiff did not "check the box" on a *pro se*

complaint form for “individual capacity,” and only checked the “official capacity” box, Plaintiff “made an affirmative decision to sue Sergeant Ahmed and Officer Minic in that [official] capacity only.” (*Id.* (emphasis added))

A complaint filed by a *pro se* plaintiff must be “liberally construed” and “held to less stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam) (quoting *Estelle v. Gamble*, 429 U.S. 97, 106, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976)). The Magistrate Judge concluded – and this Court agrees – that when construing Plaintiff’s Complaint liberally, Plaintiff’s claims against Defendants Ahmed and Minic in their individual capacity should move forward.

Accordingly, this objection is not well-taken.¹

Accordingly, for the reasons stated above:

1. The Report and Recommendation (Doc. 4) is hereby **ADOPTED**;
2. Plaintiff’s claims against the City of Middletown, Ohio and Defendants Ahmed and Minic in their official capacities only are **DISMISSED with prejudice**; and,
3. Defendants Ahmed and Minic’s objections are **OVERRULED**.

IT IS SO ORDERED.

Date: 2/16/2021

/s/Timothy S. Black
Timothy S. Black
United States District Judge

¹ Defendants Ahmed and Minic also have already answered Plaintiff’s complaint. (Doc. 13). Had Defendants taken issue with the form and pleading of Plaintiff’s complaint, as asserted in their objections, Defendants could have chosen another response to Plaintiff’s complaint.